



**BOARD FOR GEOLOGISTS AND GEOPHYSICISTS**  
2535 CAPITOL OAKS DRIVE, SUITE 300A, SACRAMENTO, CA 95833-2944  
TELEPHONE: (916) 263-2113  
FAX: (916) 263-2099  
E-mail: [geology@dca.ca.gov](mailto:geology@dca.ca.gov)  
Website: [www.geology.ca.gov](http://www.geology.ca.gov)



**Friday, October 27, 2006**

**BOARD MEETING MINUTES**

**Board for Geologists and Geophysicists**  
**Ronald Reagan Federal Building, Room 3053**  
**411 West 4<sup>th</sup> Street**  
**Santa Ana, California 92701**

**1. Call meeting to order and Introduction of New Board Members**

Mr. Sweeney called the meeting to order at approximately 9:45a.m. New Board Members Shayan Samii and James R. Ashby introduced themselves and provided overviews of their professional and educational backgrounds.

**2. Roll call to establish quorum**

**Board Members Present:** James R. Ashby, William E. Black, Richard G. Blake, Shirley Husar (absent at the time of roll call; arrived during closed session), Shayan Samii, Jeffrey T. Schmidt, Cecilia Yu.

**Board Members Absent:** None

**Board Staff Present:** Paul Sweeney (Executive Officer), George Dunfield (Enforcement Manager), Christine Doering (Staff Services Analyst), Gary Duke (DCA Legal Counsel), Don Chang (DCA Legal Counsel), Linda Laxton (DCA Human Resources), Antonette Sorrick (DCA Board Relations)

**Public Present:** Joe Mello (TAC Chair), Charles Nestle (TAC member), Scott Magorien (EOC Chair), Eric Chase, Mary Scruggs, Rick Rempel, Hugh Robertson, Tony Sawyer (former TAC Chair), Betsey Mathieson (former EOC Chair), Peter Thams

Mr. Sweeney announced that a quorum had been established.

**3. Election of Officers for Fiscal Year 2006-07, assignments to Committees and selection of Board Meeting dates and venues for 2007 (Agenda Item No. 4)**

Mr. Duke addressed a question regarding parliamentary procedure of whether or not the Board President or Chair is a voting member of the Board. Mr. Duke stated that the President and may vote and participate in discussions. Mr. Blake motioned to hold elections. Ms. Yu seconded the motion. The motion carried with a 6-0 vote. Mr. Blake nominated Mr. Black for

*The Mission of the Board for Geologists and Geophysicists is to Continuously Enhance the Quality, Significance, and Availability of Geological and Geophysical Services Offered to the People of California*

Board President. Mr. Black was elected President with a 6-0 vote. Mr. Black nominated Mr. Blake for Vice President. Mr. Blake was elected Vice President with a 6-0 vote.

Mr. Ashby inquired as to the reason the Board does not have a designated secretary. Mr. Duke stated that the Board had never established such a position and stated that the establishment of any new office would probably need to be done by way of regulation. Mr. Rempel commented that other boards do have a staff person assigned as clerk that handles meeting minutes and suggested that, given the historical accuracy of the Board's minutes, Board direct a staff person as Clerk of the Board.

**4. Public comment on non-agenda items (Agenda Item No. 3)**

Mr. Black stated that the public comment of those who had submitted testimony cards would be taken individually during the closed session. Mr. Duke stated that there would also be a public comment period after the closed session.

**CLOSED SESSION**  
**[Pursuant to Government Code § 11126(a).]**

**5. Discussion of personnel matters**

- a. Performance Appraisal of Executive Officer
- b. Continued Employment of Executive Officer  
Appointment of Interim Executive Officer

The Board went into closed session at approximately 10:10 a.m.

**OPEN SESSION**

**6. Report on results of Closed Session**

- a. Search for a new Executive Officer [Possible action, if necessary, depending on the action on agenda item 5(b).]

Open session reconvened at approximately 12:31 p.m. Mr. Black reported that, after hearing testimony from numerous individuals and hearing Mr. Sweeney's responses, the Board had voted to terminate Mr. Sweeney's employment without cause, effective immediately. Mr. Black stated action would be taken to place a notice on the website advising that the Executive Officer position is open. In the interim, the Board will work with the Department of Consumer Affairs (DCA) to develop a Memorandum of Understanding (MOU) with the Board for Professional Engineers and Land Surveyors (BPELS) for their Executive Officer, Cindi Christenson, to act as the Board's Interim Executive Officer while searching for a new Executive Officer. Mr. Chang stated that the Board may want to appoint a small two-person search committee. Ms. Laxton of DCA Human Resources explained the hiring process. Mr. Black appointed Mr. Samii and Mr. Blake to the committee to work with Human Resources.

**7. Approval of the minutes of the May 19, 2006 Board meeting**

After some discussion, Mr. Duke recommended that the minutes be referred back to staff for review and comparison with the meeting tapes. Mr. Ashby motioned to follow Mr. Duke's recommendation. Ms. Husar seconded the motion. The motion carried with a 7-0 vote. Mr. Black stated that the Board has discussed trying to keep the minutes brief but making the recordings available. Mr. Black stated that the objective of the minutes is to provide general overview of what occurred at the meeting.

**8. Public comment on non-agenda items (Agenda Item No. 3)**

Betsey Mathesien, former 6-year Chair of Enforcement Oversight Committee (EOC), shared her hope that the Board can return to a period of having regularly scheduled meetings at frequent intervals.

**9. Report from subcommittee on the review of the Department of Consumer Affairs' and the Board's policy on the length of time (residence time) that Board Minutes, Agendas, Recordings and Publications need to be maintained on the Board's website and/or held in the Board's headquarters (Agenda Item No. 8)**

Ms. Yu reported that she had researched how other boards handle this issue (handout provided). Ms. Yu presented the following recommendations: removal of agendas after the minutes are approved; not to remove other documents on website until the Board votes to do so; minutes and audio tapes kept until the Board votes to remove or discard. Ms. Yu commented that the minutes should not be a transcript, but that detail of the relevant arguments. After some discussion, Mr. Duke recommended the following retention on website: minutes for 2-3 years; citations for 3 years; agendas not needed on website after minutes are posted; perhaps 3 years for newsletters as well.

Mr. Ashby questioned whether or not limiting that information (which is available to the public) benefits and protects the public. Mr. Ashby motioned to retain records for the duration of 50 years until the Board votes to discard with the exception of agendas once the minutes come out, and consistent with the paper retention. Mr. Chang recommended that the motion be to retain internet information consistent with paper record retention policy. Mr. Ashby modified his motion to retain records on the website consistent with the paper record retention policy unless circumstances dictate that the Board act differently. Ms. Husar seconded. The motion carried with a 7-0 vote.

**10. Technical Advisory Committee report (Agenda Item No. 12)**

- a. Report on TAC meeting of July 28, 2006
- b. Report on recommendations on potential Continuing Education requirements
- c. Presentation to Board of draft Geomorphology licensure fact sheet
- d. Announcement of TAC Chair and Vice Chair for FY 2006-07

Mr. Mello reported that at the July 28, 2006 meeting, he had been elected Chair and Tom Crosby elected Vice Chair. Mr. Mello stated that the TAC would like to see continuing education as a requirement of licensure and that the TAC is looking at other states that require continuing education as well as in-state requirements for other professions. Mr. Mello further

stated that the TAC is working to put together an outline of a program that they would like to see the Board pursue. Mr. Mello stated that the Geomorphology fact sheet in the meeting packet was not a version ready for Board presentation. Mr. Mello stated that the TAC would like to have input if any action is taken on Section 7847. Mr. Mello stated that Oregon is preparing guidelines for preparing geological reports and that one of the committee members will be monitoring the guidelines to see how it relates to California. Mr. Mello requested that the TAC Meeting scheduled for November 3, 2006 be rescheduled to December 1, 2006 due to schedule conflicts of a number of committee members. Mr. Black directed staff to change the meeting date to December 1, 2006 and to make the appropriate announcement on the website.

**11. Report from subcommittee on the review of the Board's Strategic Plan and Board Members Guidelines and Procedures documents (Agenda Item No. 9)**

Mr. Blake stated that he had worked on the documents with Mr. Sweeney. Among the revisions were rewriting of some of the goals and objectives and a skeletal plan had been included in the meeting packet. Mr. Blake requested input from Board, TAC, Exam, and EOC committees, staff and the public. Mr. Ashby requested that staff provide electronic copies of the documents. Mr. Blake identified specific proposed changes to sections of the Strategic Plan. Ms. Mathiesen suggested using the most recent sunset review as a checklist for the Strategic Plan. The Board directed staff to obtain a copy of the document. Mr. Dunfield advised the Board that Senator Figueroa is terming out and proposed commencing communication with legislative staff as well presentation of a document of appreciation as Figueroa has been a strong supporter of the Board. The Board directed staff to do so. Mr. Duke stated that in Board Members Guidelines and Procedures the section regarding scheduling of meetings provided no designation as to who has the authority to schedule or terminate a meeting. Mr. Duke further stated that although the Board collectively sets its calendar, there should be some provision in the event of emergency or unusual circumstances. The Board directed staff to post request for input on website and to collate public comments and provide to committee.

**12. Report on results of Closed Session (Revisited)(Agenda Item No. 6)**

After additional discussion regarding the Interim Executive Officer, Mr. Duke stated that there was not an effort to consolidate the boards. The Board unanimously agreed to appoint Cindi Christenson as Interim Executive Officer of the Board for Geologists and Geophysicists (BGG). Ms. Christenson is currently the Executive Officer for the Board for Professional Engineers and Land Surveyors (BPELS). Board member Ashby stated that while acting as the Executive Officer of both BGG and BPELS that any enforcement-related jurisdictional issues between the two Boards be tolled (put on hold) until such time as the BGG selects and appoints a permanent Executive Officer. By tolling any such determinations until a permanent BGG Executive Officer is appointed, both Boards could avoid placing Ms. Christenson in a position of making potentially contentious unilateral decisions that would almost certainly result in members of either the BGG or BPELS being dissatisfied with her decision.

**13. Report from Board staff on the review of proposed new procedures for approving**

**applicants for licensure via the section 7847 process (Agenda Item No. 10)**

See Agenda Item No. 11.

**14. Consideration of moratorium on approval of comity applications for licensure via Section 7847 (Agenda Item No. 11)**

Mr. Black summarized the Section 7847 statute and stated that there has been a flood of applications under this section. Mr. Black recommended a moratorium on further applications until the Board develops a regulation that is more specific in order to ensure that those getting licensed under this section are qualified. Ms. Husar agreed and added that a test needs to have been taken as well as an associated timeline. Mr. Duke provided information regarding the evaluation and application process. Mr. Duke stated that the Board has wide discretion in determining equivalency and that a regulation is needed to eliminate the ambiguity as to “without examination”. After additional discussion, Mr. Ashby motioned to place a moratorium on all 7847 applications (with those received to be returned with an explanatory letter to be approved by Mr. Duke), review of those already received, and determination to be made with recommendation from staff and input from Mr. Ashby and Mr. Blake on those already received, and to then move ahead to establishing guidelines. Ms. Husar seconded the motion. The motion passed with a 7-0 vote. (Mr. Samii departed the meeting at approximately 1:45 p.m.)

**15. Legislative report (Agenda Item No. 13)**

a. Senate Bill 1476 (Figueroa) - Sunset Review

Mr. Duke reported that the Sunset Bill had extended the Board through January 1, 2006 and explained that the bill extends the life of the Board.

b. Other relevant legislation.

There was no information to report on this item.

**16. Executive Officer’s report (Agenda Item No. 14)**

**a. Budget report:** Mr. Duke suggested that review of the budget documents be deferred until a budget person is available. Mr. Dunfield gave a brief overview of meeting packet documents and budget history and suggested that to have Budget Office present an extensive review. Mr. Black directed Mr. Dunfield to ask the Budget Office to make a presentation at the next meeting.

**b. Enforcement report:** Mr. Dunfield summarized the enforcement program details and referred the Board to the enforcement report in the Board packet (41 pages). Mr. Dunfield reported that since the last meeting, Mr. Sweeney initiated a staff re-organization on August 14, 2006 in which the Enforcement Geologist staff member had ceased enforcement activities and the enforcement unit would fund ‘outreach activities’. In the approximately three-month period from May 19, 2006 to August 14, 2006 the three enforcement staff opened 3 cases, issued 2 citations, closed 3 cases; in the approximately two-month period from August 14, 2006 to October 27 the reduced enforcement staff opened 14 cases, issued 9 citations and

closed 24 cases. Mr. Dunfield reported that the streamlined enforcement program staff - in particular Corrine Gray - had worked hard to become more efficient since the last Board meeting on May 19, 2006. Mr. Rempel asked if the Enforcement Geologist salary comes out of enforcement budget; Mr. Dunfield confirmed that the Board's licensed Enforcement Geologist (Mr. Luksic PG No. 7310) was funded by the Board's enforcement program. Mr. Dunfield reported that regulations had been implemented that provide for citation authority increase to \$5,000 and that the Board is currently considering utilizing that increased authority on a case-by-case basis and that the program would be realigned to be scaled to the infraction. Mr. Duke stated that there are also increased requirements for assessing a fine from \$2,500 to the \$5,000 cap including some type of harm. Mr. Duke stated that discretion had not previously been used by Mr. Sweeney and that citations had been issued for \$2,500 across the board regardless of the allegation of wrongdoing. In summary, Mr. Dunfield stated that there has been a consistent, approximately 15% per year reduction in enforcement case-load. Mr. Blake motioned to nominate Mr. Ashby to the Enforcement Oversight Committee (EOC). Mr. Husar seconded. Mr. Duke stated that the Board President can appoint subject to approval of the Board, but would require a vote at next meeting. Mr. Ashby accepted the appointment. Ms. Husar asked Mr. Duke about the citation and fine criteria. Mr. Duke stated that the criteria are articulated in Business and Professions Code 125.9 and that the intent of the citation program is meant as lower level of reprimand rather than to be fully punitive. Ms. Husar stated that she would like to see the Board look at arbitration. Mr. Duke provided an explanation of the citation and appeal process. Mr. Duke and Mr. Dunfield relayed a case decision that had recently interpreted the Geologists and Geophysicists Act in the 4<sup>th</sup> appellate court district and for the first time interpreted section of the Business and Professions Code, in particular, section 7832 of the Geologists and Geophysicists Act.

**c. Final examination results from March 3, 2006 Administration:** Mr. Dunfield stated that the California-Specific Exam pass rate was 90% during the last administration and that the pass rate has swung as much as approximately 60% from administration to administration. Mr. Dunfield reported that the Examination Committee is going to review this aspect of the California-Specific Examination.

**d. Examination and ASBOG information:** See Agenda Item No. 14c

**e. Public Outreach and Website Update Report:** Ms. Doering reported that staff is continuing to make updates to the Board's website, working toward compliance with SB 796 and looking at the possibility of digital recordings of meetings. After some discussion regarding new recording equipment being needed, Mr. Ashby volunteered to assist staff in research efforts. The Board directed staff to update the website to reflect the newly elected President and Vice President and to update points of contact for examinations and enforcement. Mr. Dunfield referred the Board members to the letter-report generated by Mr. Luksic which described Mr. Sweeney's 4 ad-hoc geology club outreach events completed and 8 scheduled through December funded by the Board's enforcement program. The Board discussed the outreach venues and whether or not they have geology programs. Mr. Blake initiated a discussion regarding inclusion of a professional highlights section on the website. Mr. Duke stated that it could be considered an endorsement of individuals. Ms. Sorrick suggested that the Board may want to create an Outreach Committee. Mr. Black stated that an item would need to be placed on the next agenda to establish that committee. Mr. Black reappointed himself back to the Examination Committee. Mr. Dunfield presented some standard handouts used in outreach. Mr. Dunfield recommended that all outreach materials be

collected for the Outreach Committee. The President Black directed staff to do so.

**f. Other information:** No report given.

**17. Consideration of administering licensing exams twice a year (Agenda Item No. 15)**

No report given.

**18. Announcements (Agenda Item No. 16)**

Mr. Sawyer inquired about the Legislative Committee. Mr. Black confirmed the existence of the committee and stated that the Board would need to review all committees and vote at the next meeting. Mr. Nestle stated that Board Members may want to consider having DCA emails and welcomed the new board members.

**19. Adjourn meeting (Agenda Item No. 17)**

The meeting was adjourned at approximately 3:05 p.m.

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William E. Black, Board President

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Board Executive Officer

Date Approved: 12/08/06